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UNITED STATES DISTRICT COURT

FOR THE NORTHERN DISTRICT OF CALIFORNIA

PENSION PLAN FOR PENSION TRUST
FUND FOR OPERATING ENGINEERS, et al.,

Plaintiffs,

vs.

ACME CONCRETE PUMPING, INC., a
Nevada corporation, et al.,

Defendants.

Case No.: C 12-04410 JSW

**REQUEST TO CONTINUE CASE
MANAGEMENT CONFERENCE AND
ALL RELATED DEADLINES;
[PROPOSED] ORDER THEREON**

Date: January 18, 2013
Time: 1:30 p.m.
Courtroom 11, 19th Floor
Judge: The Honorable Jeffrey S. White

Plaintiffs herein respectfully request that the Case Management Conference currently on calendar for January 18, 2013, 1:30 p.m., and all related deadlines, be continued for 60 days, due to a Motion to Compel Arbitration filed by Defendants on October 23, 2012, and scheduled to be heard on January 18, 2013. Docket 23.

1. Good Cause exists for the request: This action arises under the Employee Retirement Income Security Act of 1974 (“ERISA”), as amended by the Multiemployer Pension Plan Amendments Act of 1980 (29 U.S.C §§1001-1461 (1982)), to recover withdrawal liability amounts owed by ACME Concrete Pumping, Inc., and its controlled group members to plaintiffs Pension Trust Fund for Operating Engineers, F.G. Crosthwaite, and Russell E. Burns (“Plaintiffs”).

2. On August 22, 2012, plaintiffs filed a Complaint in this matter. Docket 1.

3. Service was effectuated on Defendants Tedesco Leasing, Ltd., Pacific Rim Commercial Concrete, Inc., and Tractor & Equipment Center, LLC, on August 28, 2012. Service was effectuated on Defendants Tedesco Pacific Construction, Inc., and ACME Concrete Pumping, Inc., on August 29, 2012. Proofs of Service were filed with the Court on October 2, 2012. Docket 16. On September 13, 2012, counsel for Defendants filed a Notice of Appearance, appearing for all named Defendants. Docket 6.

4. On September 25, 2012, Defendants filed a Motion to Dismiss Based Upon Lack of Jurisdiction and Improper Venue, or in the Alternative, to Transfer Venue. Docket 15. Plaintiffs filed an opposition on October 2, 2012, to which Defendants Replied on October 19, 2012. Dockets 17 & 22. This court denied the Motion to Dismiss Based Upon Lack of Jurisdiction and Improper Venue, or in the Alternative, to Transfer Venue on November 1, 2012. Docket 27.

5. On October 22, 2012, two months after the Fund had filed its suit in federal court, Defendants sent to the American Arbitration Association a demand for Arbitration regarding their withdrawal liability. Subsequently, on October 23, 2012, Defendants a Motion to Compel Arbitration. Docket 23. Plaintiffs filed an Opposition on November 6, 2012, to which Defendants Replied on November 13, 2012. Docket 28 & 32. A hearing on Motion to Compel Arbitration is currently scheduled to be heard on January 18, 2013.

6. If the parties are required to go forward on the current date, both sides will have to expend fees for a meet and confer, drafting of a joint CMC statement and ADR procedures which may be obviated by the results of the motion. Therefore, Plaintiffs respectfully request that the Case Management Conference currently scheduled for January 18, 2012, and all of its associated deadlines, be continued for 60 days pending the results of Defendants' Motion to Compel Arbitration.

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1 I declare under penalty of perjury that I am the attorney for the plaintiffs in the above
2 entitled action, and that the foregoing is true of my own knowledge.

3 Executed this 16th day of November, 2012, at San Francisco, California.

4 SALTZMAN & JOHNSON LAW CORPORATION

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6 By: _____/S/
7 Julie A. Ostil
8 Attorneys for Plaintiffs

9 **ORDER**

10 IT IS SO ORDERED.

11 Based on the foregoing, and GOOD CAUSE APPEARING, the currently set Case
12 Management Conference is hereby continued to March 22, 2013 at 1:30 p.m. All related
13 deadlines are extended accordingly.

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15 Date: November 21, 2012 _____

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17 THE HONORABLE JEFFREY S. WHITE
18 UNITED STATES DISTRICT JUDGE
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